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\* *Application for admission pro hac vice forthcoming*

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**YULIANG GUO,**

**Plaintiff,**

**v.**

**MAGIC LEAP, INC.**

**Defendant.**

**C.A. No.**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**I. INTRODUCTION**

1. This is an action for damages brought by an individual consumer against Defendant Magic Leap, Inc. (hereafter "Magic Leap"), for violations of the Fair Credit Reporting Act (hereafter the "FCRA"), 15 U.S.C. §§ 1681 *et seq.*, as amended.

**II. PARTIES**

2. Plaintiff Yuliang Guo is an adult individual who resides in the State of California.

1           3. Defendant Magic Leap is a business entity that regularly conducts business in the  
2 Northern District of California and has principal places of business located at 1376 Bordeaux  
3 Drive, Sunnyvale, CA 94089.

4  
5                                   **III. JURISDICTION AND VENUE**

6           4. This Court has jurisdiction over this matter based upon 28 U.S.C. § 1331 and 15  
7 U.S.C. § 1681p in that all claims brought arise under the federal Fair Credit Reporting Act, 15  
8 U.S.C. §§ 1681 *et seq.* Venue is properly in this District, pursuant to 28 U.S.C. § 1391(b), because  
9 a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in this District.  
10 Venue is proper in the San Francisco Division because Defendant maintains a Registered Business  
11 Location at One Letterman Drive, San Francisco, CA 94129 and conducts operational and  
12 managerial functions and employs executive officers and management personnel in San Francisco.

13  
14                                   **IV. STATEMENT OF FACTS**

15           5. In or around May 2018, Plaintiff applied for the position of Senior Software  
16 Engineer with Defendant Magic Leap.

17  
18           6. On June 4, 2018, Magic Leap extended an employment offer to Plaintiff outlining  
19 the details of the position, details of Plaintiff's compensation, and the requirement that Plaintiff  
20 relocate from Rhode Island to Sunnyvale, California.

21           7. The June 4, 2018 offer was contingent on the successful completion of a  
22 background check.

23  
24           8. Based upon the representations made in Magic Leap's June 4, 2018 offer, Plaintiff  
25 terminated his lease in Rhode Island, paid an early termination fee, and relocated to Sunnyvale,  
26 California, in early-July 2018.

9. On or around July 24, 2018, Magic Leap processed its background check of Plaintiff.

10. Magic Leap used a third-party consumer reporting agency (“CRA”) to obtain Plaintiff’s background report. That CRA is Baan Tech.

11. Baan Tech issued a consumer report regarding Plaintiff (the “Baan Tech Report”).

12. The Baan Tech Report contained a wide range of information about Plaintiff, including, but not limited to, demographic information, educational history, credit history, employment history, criminal history and political affiliations.

13. The Baan Tech Report contained inaccurate information about Plaintiff.

14. The inaccurate information included inaccurate employment history and the inaccurate representation that Plaintiff was liable for a business loan in China.

15. Specifically the report contained the following entry:

Item	Personal Business Loan
Status	Active
No. of Repayment	12 Monthly
Date of Loan	12 August, 2017
Loan Maturity Date	12 August, 2018
Amount	RMB850,000
Outstanding Loan	RMB928,742 <sup>1</sup>
Date of Information	28 May, 2018

<sup>1</sup> Given the prevailing exchange rate as of November 6, 2018, ¥928,742 RMB converts to \$134,220 USD.

1           16.     Specifically, the Baan Tech Report stated the subject business loan was apparently  
2 funded in August 2017, during which time Plaintiff was a full-time graduate student, residing in  
3 Rhode Island.

4           17.     Plaintiff did not take out the loan and has no connection with it whatsoever.

5           18.     The consumer report generated by Baan Tech further states, "It is not clear why a  
6 PhD candidate at a US University would have such a loan in China or how he would repay it in  
7 one year's time."

8           19.     On July 24, 2018, Magic Leap notified Plaintiff that it intended to rescind the June  
9 4, 2018 job offer as a result of the information contained in the Baan Tech consumer report  
10 regarding the Chinese business loan.  
11

12           20.     In its July 24, 2018 correspondence, Magic Leap failed to identify Baan Tech by  
13 name, and instead only provided Plaintiff with the following information about the source of the  
14 Chinese business loan that Plaintiff allegedly owed:  
15

16                   176/19 Moo2  
17                   Klongmai, Sampran  
18                   Nakhon Pathom 73110 Thailand

19           21.     On that same day, Plaintiff contacted Magic Leap to notify it that the information  
20 regarding the loan in the Baan Tech report was inaccurate, and providing information and evidence  
21 that the business loan was not his.

22           22.     Plaintiff requested additional information regarding the CRA that created the  
23 consumer report so that he could dispute with that entity.  
24

25           23.     Magic Leap responded to Plaintiff by indicating that it would look into the issue.  
26  
27  
28

1           24.     Despite Magic Leap's representation, on August 13, 2018, Magic Leap rescinded  
2 the June 4, 2018 job offer based on the inaccurate business loan information contained in the Baan  
3 Tech report.

4           25.     On that same day, following rescission of the job offer, Plaintiff again contacted  
5 Magic Leap, and again reaffirmed that the information regarding the business loan was inaccurate,  
6 and again requested contact information for the CRA that created the inaccurate consumer report.

7           26.     In response, on August 16, 2018, Magic Leap for the first time provided Plaintiff  
8 with the name of the CRA that furnished the inaccurate consumer report—Baan Tech.  
9

10           27.     Magic Leap further informed Plaintiff that the CRA was located in Bangkok,  
11 Thailand, but stated that it was unable to provide Plaintiff with any other contact information for  
12 Baan Tech.  
13

14           28.     Plaintiff attempted to acquire additional information about Baan Tech by searching  
15 on the Internet; however, the physical address provided by Magic Leap for Baan Tech appears to  
16 be associated with a vacation resort.  
17

18           29.     On August 17, 2018, Magic Leap provided a phone number for Baan Tech;  
19 however, the phone number was disconnected, and could not be used to contact Baan Tech.

20           30.     Under the FCRA, a "user" of a consumer report who intends to take an "adverse  
21 action" on a job application "based in whole or in part" on information obtained from the consumer  
22 report must provide notice of that fact to the consumer-applicant, and must include with the notice  
23 a copy of the consumer report and a notice of the consumer's dispute rights under the FCRA,  
24 *before* taking the adverse action. 15 U.S.C. § 1681b(b)(3)(A).  
25

26           31.     The reasons for the "pre-adverse action notice" requirement with regard to  
27 employment situations are to alert the job applicant that he is about to experience an adverse action,  
28

1 such as a rejection, based on the content of a report, and to provide him an opportunity to challenge  
2 the accuracy or relevancy of the information with the consumer reporting agency or the user before  
3 that job prospect or job is lost.

4 32. As detailed above, Magic Leap failed to provide Plaintiff with adequate information  
5 and means to contact the CRA that provided the inaccurate consumer report for purposes of  
6 disputing that inaccurate information.

7 33. As a direct result of the inaccurate information that Plaintiff was unable to dispute,  
8 Magic Leap rescinded its job offer to Plaintiff.

9 34. As a result of Defendant's conduct, Plaintiff has suffered actual damages in the  
10 form of lost employment opportunity, loss of a yearly salary of \$155,000, loss of a signing bonus  
11 of \$20,000, loss of stock options, re-location expenses, incurred costs of moving, harm to  
12 reputation, and emotional distress, including anxiety, humiliation and embarrassment.

13 35. At all times pertinent hereto, Defendant was acting by and through its agents,  
14 servants and/or employees who were acting within the course and scope of their agency or  
15 employment, and under the direct supervision and control of the Defendant herein.

16 36. At all times pertinent hereto, the conduct of the Defendant as well as that of its  
17 agents, servants and/or employees, was willful, reckless, negligent, and in grossly negligent  
18 disregard for federal laws and the rights of the Plaintiff herein.

19 **V. CAUSES OF ACTION**

20 **COUNT ONE**  
21 **FCRA 15 U.S.C. § 1681b(b)(3)**

22 37. Plaintiff incorporates all paragraphs as though the same were set forth at length  
23 herein.

1           38. Defendant Magic Leap is a “person” as that term is defined by § 1681a(b) of the  
2 FCRA.

3           39. Plaintiff is a “consumer” as that term is defined by § 1681a(c) of the FCRA.

4           40. The above-mentioned report is a “consumer report” as that term is defined by §  
5 1681a(d) of the FCRA.  
6

7           41. Pursuant to its usual policies and practices Defendant Magic Leap never provided  
8 Plaintiff with adequate pre-adverse action notice before taking adverse action against him.

9           42. A primary reason that Congress required that a person intending to take an adverse  
10 action based on information in a consumer report provide the report to the consumer before taking  
11 the adverse action is so the consumer has time to review the report and dispute information that  
12 may be inaccurate, or discuss the report with the prospective employer before adverse action is  
13 taken. *See* Federal Trade Commission letter dated December 18, 1997 to Harold R. Hawkey, Esq.  
14 (“[T]he clear purpose of the provision to allow consumers to discuss reports with employers or  
15 otherwise respond before adverse action is taken”).  
16

17           43. Consistent with that purpose, federal courts have held that the prospective employer  
18 must provide the report to the consumer “a sufficient amount of time before it takes adverse action  
19 so that the consumer may rectify any inaccuracies in the report.” *Williams v. Telespectrum, Inc.*,  
20 2006 U.S. Dist. LEXIS 101162, at \*18 (E.D. Va. Nov. 7, 2006); *Beverly v. Wal-Mart Stores, Inc.*,  
21 2008 U.S. Dist. LEXIS 2266 (E.D. Va. Jan. 11, 2008) (quoting *Williams*).  
22

23           44. By means of these cases and others construing § 1681b(b)(3)(A), Defendant Magic  
24 Leap had substantial notice that its conduct violated the FCRA.  
25

26           45. By failing to provide Plaintiff with a adequate means or information to dispute the  
27 inaccurate information in the consumer report, prior to taking adverse action against him based on  
28

the report, Defendant Magic Leap disregarded the case law, regulatory guidance, and the plain language of the FCRA § 1681b(b)(3)(A).

46. Defendant Magic Leap used a consumer report for employment purposes, and took adverse action against Plaintiff based in whole or in part on the consumer report.

47. Defendant Magic Leap negligently and willfully failed to comply with the requirements of FCRA § 1681b(b)(3)(A) by failing to provide Plaintiff with adequate pre-adverse action notice before taking adverse action against him, as well as a copy of the Baan Tech Report and statement of Plaintiff's rights under the FCRA.

48. Pursuant to 15 U.S.C. § 1681n and 1681o, Defendant Magic Leap is liable to Plaintiff for willfully and negligently violating FCRA § 1681b(b)(3).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff seeks judgment in Plaintiff's favor and damages against Defendant, based on the following requested relief:

- (a) Statutory damages;
- (b) Actual damages;
- (c) Punitive damages;
- (d) Costs and reasonable attorney's fees pursuant to 15 U.S.C. §§ 1681n and 1681o; and
- (e) Such other and further relief as may be necessary, just and proper.

**COUNT TWO**  
**Promissory Estoppel**

49. Plaintiff incorporates all paragraphs as though the same were set forth at length herein.



50. Defendant is liable to Plaintiff for damages caused by its breach of promise of employment to him, reasonably relied upon by Plaintiff.

51. Defendant promised Plaintiff a job as a Senior Software Engineer with certain salary, benefits and perquisites as outlined in the June 4, 2018 offer ("Offer").

52. The Offer further required Plaintiff to relocate from Rhode Island to California, and provided for a relocation reimbursement in the amount of \$8,000.

53. In reasonable reliance on the Offer, Plaintiff terminated his lease in Rhode Island, paid a termination fee, incurred moving expenses, and relocated across the country to California.

54. Notwithstanding the above promise and Plaintiff's reliance thereupon, Defendant did not fulfill its promise to provide Plaintiff with the job as a Senior Software Engineer with certain salary, benefits and perquisites as outlined in the Offer.

55. As a direct and proximate result of Defendant's inducement of Plaintiff's reliance upon their false promise, he suffered the damages alleged above.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff seeks judgment in Plaintiff's favor and damages against Defendant, based on the following requested relief:

- (a) Actual damages; and
- (b) Such other and further relief as may be necessary, just and proper.

**COUNT THREE**  
**Negligence**

56. Plaintiff incorporates all paragraphs as though the same were set forth at length herein.

57. Defendant is liable to Plaintiff for damages caused by its breach of its duty to provide truthful and honest information to Plaintiff about his employment prospects with it.

1           58. Defendant owed Plaintiff a duty to communicate honestly and truthfully with  
2 respect to his job prospects with it.

3           59. Defendant breached its duty to Plaintiff by failing to provide him with meaningful  
4 notice of its intention to take adverse employment action based in whole or in part on a consumer  
5 report.  
6

7           60. Defendant breached its duty to Plaintiff by failing to provide him with a meaningful  
8 opportunity to dispute the inaccurate information on the Baan Tech Report prior to taking adverse  
9 action against Plaintiff based on the inaccurate information contained in the Baan Tach Report.  
10

11           61. As a direct and proximate result of Defendant's breach of its duty to Plaintiff,  
12 Plaintiff suffered the damages alleged above.

13                                   **PRAYER FOR RELIEF**

14           WHEREFORE, Plaintiff seeks judgment in Plaintiff's favor and damages against  
15 Defendant, based on the following requested relief:

16                   (c) Actual damages; and

17                   (d) Such other and further relief as may be necessary, just and proper.  
18

19                                   **COUNT FOUR**

20                                   **Breach of Implied Covenant of Good Faith and Fair Dealing**

21           62. Plaintiff incorporates all paragraphs as though the same were set forth at length  
22 herein.

23           63. Defendant is liable to Plaintiff for damages caused by its breach of the implied  
24 covenant of good faith and fair dealing in the course of their employment negotiations and  
25 agreements.  
26  
27  
28

64. Specifically, Defendant promised to allow Plaintiff the ability to dispute the inaccurate information contained in the Baan Tech Report prior to taking adverse action against Plaintiff.

65. However, Defendant's promise was illusory because it failed to provide Plaintiff with the necessary information to make contact with Baan Tech and dispute the inaccurate information prior to Defendant making the decision to take adverse action against Plaintiff based on the inaccurate information.

66. As a direct and proximate result of Defendant's breach of the implied covenant of good faith and fair dealing, Plaintiff suffered the harm alleged above.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff seeks judgment in Plaintiff's favor and damages against Defendant, based on the following requested relief:

- (a) Actual damages; and
- (b) Such other and further relief as may be necessary, just and proper.

**JURY TRIAL DEMAND AND GENERAL PRAYER FOR RELIEF**

67. Plaintiff demands trial by jury on all issues so triable.

WHEREFORE, Plaintiff seeks judgment in Plaintiff's favor and damages against Defendant Magic Leap, for the following requested relief:

- A. Actual damages;
- B. Statutory damages;
- C. Punitive and/or treble damages and penalties;


1 D. Costs of suit and reasonable attorney's fees and costs of investigation and litigation  
2 pursuant to, among other statutes, 15 U.S.C. §§ 1681n and 1681o;

3 E. Pre-judgment and post-judgment interest as provided by law; and

4 F. Such other and further relief, including any equitable relief by way of restitution,  
5 rescission or other equitable relief, as may be necessary, just and proper.  
6

7 Respectfully submitted,

8 **EVANS LAW FIRM, INC.**

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